

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GEORGE M. ROWANN,	:	
	:	
Petitioner,	:	No. 4: CV-10-02148
	:	
v.	:	(McClure, J.)
	:	
BRIAN V. COLEMAN,	:	(Magistrate Judge Blewitt)
	:	
Respondent.	:	

**MEMORANDUM**

November 18, 2010

**INTRODUCTION:**

On October 18, 2010, petitioner George M. Rowann, an inmate at the State Correctional Institution at Fayette (“SCI-Fayette”), located in LaBelle, Pennsylvania, filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Rec. Doc. No. 1).<sup>1</sup> Named as the respondent is Brian V. Coleman, the Superintendent at SCI-Fayette. (Id.). With his petition, Rowann challenges (1) the issuance by the Bureau of Immigration and Customs Enforcement (“ICE”) of a removal order, on September 23, 2010, pertaining to Rowann; and (2) a misconduct report issued against him on October 9, 2009,

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<sup>1</sup> With his habeas petition, Rowann also included a number of exhibits, labeled “A” through “J,” and a motion for leave to proceed in forma pauperis. (Rec. Doc. Nos. 2-3).

while incarcerated at the State Correctional Institution at Smithfield, and his subsequent disciplinary conviction and sanctions. (See Rec. Doc. No. 1 at 1-5).

The matter initially was referred to United States Magistrate Judge Thomas M. Blewitt. On October 28, 2010, Magistrate Judge Blewitt issued a ten (10) page report and recommendation. (Rec. Doc. No. 4). First, Magistrate Judge Blewitt recommends that Rowann's initial claim, which concerns the removal order issued by the ICE, "be dismissed for lack of subject matter jurisdiction pursuant to the Real ID Act." (Id. at 8). As support, the magistrate judge notes that, pursuant to the REAL ID Act, Pub. L. No. 109-13, 119 Stat. 231, a challenge by Rowann to his final removal order "must be raised in a Peition for Review of his final Removal Order filed with the Third Circuit Court of Appeals." (Id. at 6). Second, the magistrate judge recommends that Rowann's challenge to his disciplinary conviction and sanction should "be dismissed for failure to state a cognizable habeas claim." (Id. at 8). Magistrate Judge Blewitt indicates that this conclusion is compelled in light of the fact "that this claim would not afford Petitioner a speedier or immediate release from custody." (Id.).

Objections to the magistrate judge's report and recommendation were due no later than November 15, 2010. Although Rowann has not filed any objections to the magistrate judge's report and recommendation, he did file a motion entitled

a “Motion to be Excused as Petitioner had Mistakenly Filed in the Wrong Forum as Now Moves for Allowance to Regain the Attached Exhibits A-Thur-J [sic] Due to Petitioner’s Penury” on November 15, 2010. (Rec. Doc. No. 5). With this motion, Rowann appears to concede the conclusions as reached by Magistrate Judge Blewitt, but requests the return of those documents filed as exhibits to his petition so that he might file his petition in the proper forum. (See id.).

#### **DISCUSSION:**

As noted above, no objections to the report and recommendation have been filed, and the date for filing such objections with this court has since passed. Because Rowann has elected not to object to the report and recommendation and because we agree with the magistrate judge’s thorough analysis and recommendation, we will adopt the report and recommendation in full. For the purposes of judicial economy, we will not rehash the sound reasoning employed by Magistrate Judge Blewitt. Therefore, we will grant Rowann’s motion to proceed in forma pauperis, dismiss the case in its entirety, and direct the clerk to close the case file. In addition, we will grant Rowann’s “Motion to be Excused as Petitioner had Mistakenly Filed in the Wrong Forum as Now Moves for Allowance to Regain the Attached Exhibits A-Thur-J [sic] Due to Petitioner’s Penury.” (Rec. Doc. No. 5). As such, we will direct the clerk to mail to Rowann

those documents he seeks to have returned, namely, the exhibits docketed at Docket No. 2 and labeled “A” through “J.”

s/ James F. McClure, Jr.  
James F. McClure, Jr.  
United States District Judge

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	:	
Respondents.	:	

**ORDER**

November 18, 2010

Now, therefore, in accordance with the accompanying memorandum, **IT IS  
HEREBY ORDERED THAT:**

1. Petitioner Rowann's motion to proceed in forma pauperis is **GRANTED**. (Rec. Doc. No. 3).
2. United States Magistrate Judge Blewitt's Report and Recommendation is **ADOPTED IN FULL**. (Rec. Doc. No. 4)
3. Rowann's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED**. (Rec. Doc. No. 1).
4. Rowann's "Motion to be Excused as Petitioner had Mistakenly Filed in the Wrong Forum as Now Moves for Allowance to Regain the Attached

Exhibits A-Thur-J [sic] Due to Petitioner's Penury" is **GRANTED**. (Rec. Doc. No. 5).

5. The clerk is directed to mail to Rowann those documents he seeks to have returned, namely, the exhibits docketed at Docket No. 2 and labeled "A" through "J."

6. The clerk is directed to close the case file.

s/ James F. McClure, Jr.  
James F. McClure, Jr.  
United States District Judge